

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8429 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and  
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SHETH ENTERPRISE PVT LTD

Versus

UNION OF INDIA  
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Appearance:

MR MIHIR H JOSHI for Petitioners  
MR AKSHAY H MEHTA for Respondent No. 1  
MR MUKESH R SHAH for Respondent No. 2, 3  
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CORAM : MR.JUSTICE J.N.BHATT and  
MR.JUSTICE H.K.RATHOD

Date of decision: 03/11/1999

ORAL JUDGEMENT

Rule, service of which is waived by Mr. Mehta,  
the learned Additional Standing Counsel appearing for the  
first respondent and Mr. Shah, the learned Additional  
Standing Counsel appearing for the respondents nos. 2  
and 3.

2. Having considered the facts and circumstances of the case, in our opinion, the petitioners are required to be relegated to the remedy of statutory appeal. Accordingly, the petitioners are relegated to the remedy of statutory appeal before the appellate authority. If the petitioners submit appeal against the impugned order within the period of four weeks from today, along with the stay applications, the bank guarantee shall not be encashed for a further period of two weeks therefrom. Until the stay application is decided by the competent appellate authority, the bank guarantee already invoked shall not be encashed and obviously, the same will have to be kept alive. In the facts and circumstances of the case, the appellate authority, the Commissioner, is directed to hear and decide the stay application within a period of four weeks from the date of receipt of such stay applications, in accordance with law, after hearing the parties. In view of the aforesaid directions, the petition shall not assume any survival value. Same is, therefore, ordered to be disposed of. Rule is discharged with no order as to costs.

3.11.1999. -----

Vyas